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SERIES I No. 23

OFFICIAL GAZETTE

GOVERNMENT OF GOA



PUBLISHED BY AUTHORITY

NOTE

There are two Extraordinary issues to the Official Gazette, Series I No. 22 dated 26-8-2010, as follows:-

- (1) Extraordinary dated 26-8-2010 from pages 945 to 946 giving effect to the provisions of the Goa Agricultural Produce Marketing (Dev. and Reg.) Act, 2007 – Not. No. 13/1/07-MR/MKT/RCS from Department of Co-operation (Office of the Registrar of Co-op. Societies).
- (2) Extraordinary (No. 2) dated 1-9-2010 from pages 947 to 950 regarding Repayment of Goa State Development Loan, 2010 – Press Communique No. 1-45-96/Fin(DMU) PF from Department of Finance (Debt Management Division) & The Goa Appropriation (No. 4) Act, 2010 and The Goa Ancient Monuments and Archaeological Sites and Remains (Amendment) Act, 2010 – Not. Nos. 7/11/2010-LA, 7/10/2010-LA from Dept. of Law & Judiciary (Legal Affairs Div.).

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GOVERNMENT OF GOA

Department of General Administration

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Order

35/4/2010-GAD-III/2476

Government of Goa is pleased to grant Group 'B' Gazetted status to the post of Technical Officer in the Secretariat with effect from the date of notifying of Recruitment Rules for the said posts in the Official Gazette.

By order and in the name of the Governor of Goa.

Prabhakar V. Vaingankar, Under Secretary (GA).

Porvorim, 27th August, 2010.

Department of Law & Judiciary

Legal Affairs Division

Notification

10/2/2010-LA/179

The Enemy Property (Amendment and Validation) Ordinance, 2010 (Ordinance No. 4 of 2010), which has been promulgated by the President in the Sixty-first Year of the Republic of India and published in the Gazette of India, Extraordinary, Part II, Section 1, No. 27 dated 2-7-2010, is hereby published for general information of the public.

Julio Barbosa Noronha, Under Secretary (Law).

Porvorim, 26th August, 2010.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd July, 2010/Asadha 11, 1932 (Saka)

THE ENEMY PROPERTY (AMENDMENT AND VALIDATION) ORDINANCE, 2010

No. 4 of 2010

Promulgated by the President in the Sixty-first Year of the Republic of India.

An Ordinance further to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*— (1) This Ordinance may be called the Enemy Property (Amendment and Validation) Ordinance, 2010.

(2) It shall come into force at once.

2. *Amendment of section 5.*— On and from the date of commencement of the Enemy Property Act, 1968 ^{34 of 1968} (hereinafter referred to as the principal Act), in section 5, after sub-section (2), the following shall be inserted and shall be deemed to have been inserted, namely:—

‘(3) The enemy property vested in the Custodian shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue to remain vested in the Custodian till it is divested by the Central Government.

Explanation.— For the purpose of this section, “enemy property vested in the Custodian” shall include all titles, rights and interest in, or any benefit arising out of, such property vested in him under the Act.’.

3. *Insertion of new section 5A.*— After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A. *Issue of certificate by Custodian.*— The Custodian may, after making such inquiry as he deems necessary, by order, declare that the property of the enemy or the enemy subject or the enemy firm described in the order, vests in him under the Act and issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.”.

4. *Amendment of section 6.*— On and from the date of commencement of the principal Act, in section 6, the following *Explanation* shall be inserted and shall be deemed to have been inserted, namely:—

“*Explanation.*— For the removal of doubts, it is hereby declared that, for the purposes of this section, the transfer of any enemy property shall not include any transfer or any claim of transfer made,—

- (a) through oral Will or oral Gift; or
- (b) by concealment of enemy nationality; or
- (c) in case the transfer of such property requires the permission of the Reserve Bank of India or any other competent authority, without such permission; or
- (d) without the permission of the Custodian.”.

5. *Amendment of section 8.*— In section 8 of the principal Act, in sub-section (2),—

- (a) after clause (i), the following clause shall be inserted, namely:—

“(ia) fix and collect the rent, standard rent, lease rent, licence fee or usage charges, as the case may be, in respect of enemy property;”;

- (b) after clause (iv), the following clause shall be inserted, namely:—

“(iva) secure vacant possession of the enemy property by evicting from the unauthorised or illegal occupant or trespasser and remove unauthorised or illegal constructions, if any;”.

6. *Insertion of new section 10A.*— After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. *Transfer of immovable property belonging to enemy.*— (1) Where the Custodian proposes to sell any enemy immovable property vested in him, as referred to in section 8, to any person, he may on receipt of the sale proceeds of such property, issue a certificate of sale in favour of such person and such certificate of sale shall, notwithstanding the fact that the original title deeds of the property have not been handed over to the transferee, be valid and conclusive proof of ownership of such property by such person.

(2) Notwithstanding anything contained in any law for the time being in force, the certificate of sale, referred to in sub-section (1), issued by the Custodian shall be a valid instrument for the registration of the property

in favour of the transferee and the registration in respect of enemy property for which such certificate of sale had been issued by the Custodian, shall not be refused on the ground of lack of original title deeds in respect of such property or for any such other reason.”.

7. *Amendment of section 11.*— In section 11 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Custodian, Deputy Custodian or Assistant Custodian shall have, for the purposes of exercising powers or discharging his functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while dealing ^{5 of 1908.} with any case under this Act, in respect of the following matters, namely:—

- (a) requiring the discovery and inspection of documents;

(b) enforcing the attendance of any person, including any officer dealing with land, revenue and registration matters, banking officer or officer of a company and examining him on oath;

- (c) compelling the production of books, documents and other records; and

(d) issuing commissions for the examination of witnesses or documents.”.

8. *Amendment of section 17.*— In section 17 of the principal Act, in sub-section (1), for the words “two per centum”, at both the places where they occur, the words “five per centum” shall be substituted.

9. *Insertion of new section 18A.*— On and from the date of commencement of the principal Act, after section 18, the following section shall be inserted and shall be deemed to have been inserted, namely:—

“18A. *Income not liable to be returned.*— Any income received in respect of the enemy property by the Custodian shall not,

notwithstanding that such property had been divested or transferred to any other person, be returned or liable to be returned to such person or any other person unless so directed by order, by the Central Government.”.

10. *Insertion of new sections 18B and 18C.*— After section 18A of the principal Act, [as so inserted by section 9 of this Ordinance], the following sections shall be inserted, namely:—

“18B. *Bar of jurisdiction of courts in matters of divesting.*— No court shall have jurisdiction to order divestment from the Custodian of enemy property vested in him under this Act or direct the Central Government to divest such property from the Custodian.

Explanation.— For the removal of doubts, it is hereby declared that the courts shall have jurisdiction to adjudicate whether the property claimed to be vested in the Custodian is an enemy property or not.

18C. *Disposal of enemy property vested in custodian by Central Government.*— The Central Government may, by general or special order, direct that any or all enemy property vested in the Custodian under this Act shall be sold or disposed off in such manner as may be prescribed.”.

11. *Amendment of section 20.*— In section 20 of the principal Act, in sub-section (3), for the words “five hundred rupees”, the words “ten thousand rupees” shall be substituted.

12. *Amendment of section 23.*— In section 23 of the principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

“(da) the manner of sale or disposal of the enemy property vested in the Custodian under section 18 C;”.

13. *Insertion of new section 26.*— After section 25 of the principal Act, the following section shall be inserted, namely:—

“26. *Validation.*— Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act, as amended by the said Ordinance, had been in force at all material times;

(b) any enemy property divested from the Custodian to any person under the provisions of this Act, as it stood immediately before the commencement of the Enemy Property (Amendment and Validation) Ordinance, 2010, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the Custodian in the same manner as it was vested in the Custodian before such divesting of enemy property under the provisions of this Act, as if the provisions of this Act, as amended by the aforesaid Ordinance, were in force at all material times;

(c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority directing divestment of enemy property from the Custodian vested in him under section 5 of this Act, as it stood before the commencement of the Enemy Property (Amendment and Validation) Ordinance, 2010, and such enemy property shall continue to vest in the Custodian under section 5 of this Act, as amended by the aforesaid Ordinance, as the said section, as amended by the aforesaid Ordinance, was in force at all material times;

(d) any transfer of any enemy property, vested in the Custodian, by virtue of any order of attachment, seizure or sale in execution of decree of a civil court or orders of any tribunal or other authority in respect of enemy property vested in the Custodian which is contrary to the

provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the Custodian under this Act.”.

14. *Amendment of Act 40 of 1971.*— In the Public Premises (Eviction of Unauthorised Occupants) Act, 1971,—

(a) in section 2, in clause (e), after sub-clause (3), the following sub-clause shall be inserted, namely:—

“(4) any premises of the enemy property as defined in clause (c) of section 2 of the Enemy Property Act, 1968; 34 of 1968.

(b) in section 3, in clause (a),—

(i) in the second proviso, the word “and” shall be omitted;

(ii) after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that the Custodian, Deputy Custodian and Assistant Custodian of the enemy property appointed under section 3 of the Enemy Property Act, 1968 shall be 34 of 1968. deemed to have been appointed as the Estate Officer in respect of those enemy property, being the public premises, referred to in sub-clause (4) of clause (e) of section 2 of this Act for which they had been appointed as the Custodian, Deputy Custodian and Assistant Custodian under section 3 of the Enemy Property Act, 1968.”.

PRATIBHA DEVISINGH PATIL,
President

V. K. BHASIN,
Secy. to the Govt. of India.

Department of Personnel

Notification

2/5/95-PER

- Read: (i) Notification No. 2/5/95-PER dated 2-1-2003, published in the Official Gazette, Series I No. 44 dated 30-1-2003.
- (ii) Notification No. 2/5/95-PER dated 21-1-2008, published in the Official Gazette, Series I No. 45 dated 7-2-2008; and
- (iii) Notification No. 2/5/95-PER dated 23-9-2008, published in the Official Gazette, Series I No. 27 dated 3-10-2008.

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Goa hereby makes the following rules so as to amend the Goa State Civil Service (Grant of leave to seek employment in India or abroad) Rules, 2002, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa State Civil Service (Grant of leave to seek employment in India or abroad) (Third Amendment) Rules, 2010.

(2) They shall come into force at once.

2. *Amendment of rule 1.*— In rule 1 of the Goa State Civil Service (Grant of leave to seek employment in India or abroad) Rules, 2002, in sub-rule (3), after the expression “Government of Goa, except the employees of Goa Judiciary”, the words “and Police Department” shall be added.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary (Personnel-I).

Porvorim, 20th August, 2010.

Department of Urban Development

Directorate of Municipal Administration

Notification

10/562/2010-DMA/2386

The following draft rules which are proposed to be made so as to further amend the Goa Municipalities (Election) Rules, 1969, are hereby pre-published as required by sub-section (3) of section 306 of the Goa Municipalities Act, 1968 (Act 7 of 1969), for information of the persons likely to be affected thereby and notice is hereby given that the said draft rules will be taken into consideration by the Government on the expiry of fifteen days from the date of publication of this Notification in the Official Gazette.

All objections and suggestions to the said draft rules may be forwarded to the Director of Urban Development/Municipal Administration, Collectorate Building, Panaji-Goa, before the expiry of the said period of fifteen days from the date of publication of this Notification in the Official Gazette.

DRAFT RULES

In exercise of the powers conferred by Section 18 read with sub-section (2) of section 306 of the Goa Municipalities Act, 1968 (Act 7 of 1969), and all other powers enabling it in this behalf, the Government of Goa hereby makes the following rules so as to further amend the Goa Municipalities (Election) Rules, 1969, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Municipalities (Election) (Amendment) Rules, 2010.

(2) They shall come into force at once.

2. *Substitution of rule 26.*— For rule 26 of the Goa Municipalities (Election) Rules, 1969 (hereinafter referred to as the “principal Rules”) the following shall be substituted, namely:—

“26. *Manner of voting at elections.*— At every contested election, votes shall be given either by ballot or by electronic voting machine, decided by the State Election Commission in the manner hereinafter provided.”.

3. *Insertion of new rules 64 to 96.*— After rule 63 of the principal Rules, the following rules shall be inserted, namely:—

“64. *Design of Electronic Voting Machine.*— Every Electronic voting machine (hereinafter referred to as the “voting machine”) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the State Election Commission.

65. *Preparation of voting machine by the Returning Officer.*— (1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the State Election Commission may specify.

(2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.

(3) If two or more candidates bear the same name; they shall be distinguished by the addition of their occupation or residence or in some other manner.

(4) Subject to the foregoing provisions of this rule, the Returning Officer shall,—

(a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;

(b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

66. Arrangements at the polling stations.—

(1) Outside each polling station there shall be displayed prominently,—

(a) a notice specifying the polling area, the voters of which are entitled to vote at the polling station and, where the polling station has more than one polling booth, at each one of such booths, the description of voters allotted to such booth; and

(b) another notice giving the name of each candidate in the same language or languages and in the same order in which the names of such candidates appear in the list of contesting candidates at the election published under rule 16 together with the description of the symbol which has been assigned to each of the such candidates under that rule.

(2) The Returning Officer shall cause to be provided at every polling station a compartment in which the voters can record their votes screened from observation.

(3) The Returning Officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.

(4) Without prejudice to the provisions of sub-rule (3), the Returning Officer may, with the previous approval of the State Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

67. Admission to polling stations.— The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than—

(a) Polling Officers;

(b) public servants on duty in connection with the election;

(c) person authorized by the State Election Commission or the Returning Officer;

(d) candidates, their election agents and subject to the provisions of rule 19 one polling agent of each candidate;

(e) a child in arms accompanying a voter;

(f) a person accompanying a blind or infirm voter who cannot move without help; and

(g) such other persons as the Returning Officer or the Presiding Officer may employ for the purpose of identifying the voter.

68. Preparation of voting machine for poll.— (1) The control unit and balloting unit of every voting machine used at a polling station shall bear a label marked with,—

(a) the serial number, if any, and the name of the ward;

(b) the serial number and name of the polling station or names of polling stations, as the case may be;

(c) the serial number of the unit; and

(d) the date of poll.

(2) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (1).

(3) A paper seal shall be used for securing the control unit of the voting machine and the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as are desirous of affixing the same.

(4) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.

(5) The seal used for securing the control unit shall be fixed in such a manner that after the unit has been sealed it is not possible to press the “result button” without breaking the seal.

(6) The control unit shall be closed and secured and placed in full view of the Presiding Officer and the polling agents and the balloting unit placed in the voting compartment.

69. *Marked copy of electoral roll.*— Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain,—

(a) any entry other than that made in pursuance of clause (b) of sub-rule (2) of rule 72; and

(b) any mark other than the mark made in pursuance of sub-rule (3) of rule 36.

70. *Facilities for women voters.*— (1) Where a polling station is for both men and women voters, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.

(2) The Returning Officer or the Presiding Officer may appoint a woman to serve as an assistant at a polling station to assist woman voters and also to assist the Presiding Officer generally in taking the poll in respect of women voters and, in particular, to help in searching any women voters in case it becomes necessary.

71. *Identification of voters.*— (1) The Presiding Officer may employ at the polling

station such persons, as he thinks fit, to help in the identification of the voters or to assist him otherwise in taking the poll.

(2) As each voter enter the polling station, the Presiding Officer, or the Polling Officer authorized by him in this behalf, shall check the voters name and other particulars with the relevant entry in the list of voters and then call out the serial number, name and other particulars of the voter.

(3) In deciding the right of a person to cast his vote the Presiding Officer or the Polling Officer, as the case may be, shall overlook merely clerical or printing errors in an entry in the list of voters, if he is satisfied that such person is identical with the voter to whom such entry relates.

(4) The identity of voters shall be decided on the basis of,—

(i) Photo Identity Card issued by the Election Commission of India; or

(ii) Photo Identity Card issued by any Department of the Central or State Government; or

(iii) PAN Card issued by the Income Tax Department; or

(iv) Passport; or

(v) Student Photo identity card issued by a recognized educational institution; or

(vi) Driving licence issued by the Directorate of Transport; or

(vii) Photo identity card issued to an employee by the employer provided the name and designation of the issuing authority is clearly shown.

72. *Facilities for public servants on election duty.*— (1) The provisions of the rule 71 shall not apply to any person who produces at the polling station an election duty certificate in Form XVI hereto and seeks permission to cast his vote at that polling station although it is different from the one where he is entitled to vote.

(2) On production of such certificate the Presiding Officer shall,—

(a) obtain thereon the signature of the person producing it;

(b) have the person's name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and

(c) permit him to cast his vote in the same manner as far as an elector entitled to vote to that polling station.

73. *Challenging of identity.*— (1) Any candidate, election agent or polling agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of five rupees in cash with the Presiding Officer for each such challenge.

(2) On such deposit being made, the Presiding Officer shall,—

(a) warn the person challenged of the penalty for personation;

(b) read the relevant entry in the list of voters in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form XVII hereto; and

(d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose,—

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, Presiding Officer considers that the challenge has not been established, he shall allow the person challenged to vote: and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to the Council and in any other case, he shall return it to the challenger at the conclusion of the inquiry.

74. *Safeguards against personation.*— (1) With a view to preventing personation of voter, every voter about whose identity the Presiding Officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or polling officer and an indelible ink mark to be put on it.

(2) If any voter refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, he shall not be allowed to vote.

(3) Any reference in this rule to the left forefinger of a voter shall, in the case where the voter has his left forefinger missing, be construed as a reference to any other finger of his left hand and shall, in the case where all the fingers of the left hand are missing,

be construed as a reference to the forefinger or any other finger of his right hand, and shall, in the case where all his fingers of both the hands are missing, be construed as a reference to such extremity of his left or right arm as he possesses.

75. Procedure for voting by voting machines.— (1) Before permitting an elector to vote, the Polling Officer shall,—

(a) record the electoral roll number of the voter as entered in the marked copy of the electoral roll in a register of voters in Form XVIII hereto;

(b) obtain the signature or the thumb impression of the voter on the said register of voters; and

(c) mark the name of the voter in the marked copy of the electoral roll to indicate that he has been allowed to vote:

Provided that no voter shall be allowed to vote unless he has put his signature or thumb impression on the register of voters.

(2) Notwithstanding anything contained in sub-rule (1), it shall be necessary for any Presiding Officer or polling officer or any other officer to attest the thumb impression of the voter on the register of voters.

76. Maintenance of secrecy of voting by voters within the polling station and voting procedure.— (1) Every voter who has been permitted to vote under rule 75 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote, the voter shall proceed to the Presiding Officer or the polling officer incharge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of voters vote.

(3) The voter shall thereafter forthwith,—

(a) proceed to the voting compartment;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and

(c) come out of the voting compartment and leave the polling station.

(4) Every voter shall vote without undue delay.

(5) No voter shall be allowed to enter the voting compartment when another voter is inside it.

(6) If a voter who has been permitted to vote under rule 75 or rule 79 refuses after warning given by the Presiding Officer to observe the procedure laid down in the said rules, the Presiding Officer or the polling officer under the direction of the Presiding Officer shall not allow such voter to vote.

(7) Where a voter is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the voters name in the register of voters in Form XVIII hereto by the Presiding Officer under his signature.

77. Recording of votes of blind or infirm voters.— (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities, a voter is unable to recognize the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one voter at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of a voter on any day under this rule, that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the voter and that he has not already acted as the companion of any other voter at any other polling station on that day.

(2) The Presiding Officer shall keep a record in Form XIX hereto of all cases under this rule.

78. *Voter deciding not to vote.*— If a voter, after his electoral roll number has been duly entered in the register of voters in Form XVIII hereto and has put his signature or thumb impression thereon as required under sub-rule (1) of rule 75, decides not to record his vote, a remark to this effect shall be made against the said entry in Form XVIII hereto by the Presiding Officer and the signature or thumb impression of the voter shall be obtained against such remark.

79. *Tendered votes.*— (1) If a person representing himself to be a particular voter seeks to vote after another person has already voted as such voter, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be instead of being allowed to vote through the balloting unit supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the State Election Commission may specify.

(2) Every such voter shall, before being supplied with tendered ballot paper, write his name against the entry relating to him in Form XX hereto.

(3) On receiving the ballot paper he shall forthwith,—

(a) proceed to the voting compartment;

(b) record there his vote in the ballot paper by placing a cross mark 'X' with the

instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intend to vote;

(c) fold the ballot so as to conceal his vote;

(d) show to the Presiding Officer, if required, the distinguishing mark on the ballot paper;

(e) give it to the Presiding Officer who shall place it in a cover specially kept for the purpose; and

(f) leave the polling station.

(4) If, owing blindness or physical infirmities, such voter is unable to record his vote without assistance; the Presiding Officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 77 for recording the vote in accordance with his wishes.

80. *Presiding Officer's entry in the voting compartment during poll.*— (1) The Presiding Officer may, whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

(2) If the Presiding Officer has reason to suspect that an voter who has entered the voting compartment is tempering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

81. *Closing of poll.*— (1) The Presiding Officer shall close a polling station at the

hour fixed in that behalf under rule 4 and shall not thereafter admit any voter into the polling station:

Provided that all voters present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether a voter was present at the polling station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

82. *Account of voters recorded.*— (1) The Presiding Officer shall at the close of the poll prepare an account of votes recorded in Form XXI hereto and enclose it in a separate cover with the words 'Account of Votes Recorded' superscribed thereon.

(2) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form XXI hereto after obtaining a receipt from the said polling agent thereafter and shall attest it as a true copy.

83. *Sealing of voting machine after poll.*—

(1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

(2) The control unit and the balloting unit shall thereafter be sealed and secured separately in such a manner as the State Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.

(3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

84. *Sealing of other packets.*— (1) The Presiding Officer shall then make into separate packets,—

(a) the marked copy of the list of voters;

(b) the register of voters in Form XVIII;

(c) the cover containing the tendered ballot papers and the list in Form XX;

(d) the list of challenged votes; and

(e) any other papers directed by the Returning Officer to be kept in a sealed packet.

(2) Each such packet shall be sealed with the seals of the Presiding Officer and of those polling agents present who may desire to affix their seal thereon.

85. *Transmission of voting machines, etc., to the Returning Officer.*— (1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct,—

(a) the voting machine;

(b) the account of votes recorded in Form XXI;

(c) the sealed packets referred to in rule 84; and

(d) all other papers used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

86. *Adjournment of poll in emergencies.*—

(1) If, at an election, the proceedings at any polling station for the poll are interrupted or obstructed by any riot or open violence, or if, at an election, it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause, the Returning Officer or the Presiding Officer for such polling station shall announce an adjournment of the poll to a date to be fixed later, and where the poll is so adjourned

by the Presiding Officer, he shall forthwith inform the Returning Officer concerned.

(2) Whenever a poll is adjourned under sub-rule (1), the Returning Officer shall immediately report the circumstances to the State Election Commission who shall, as soon as may be, fix the day on which the poll shall recommence and fix the polling station at which and the hour during which, the poll shall be taken. The Returning Officer shall not count the votes cast at such election, until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the State Election Commission shall publish the date, place and hours of the poll fixed under sub-rule (2) in the manner laid down in rule 4; and the provisions of these rules governing the original poll shall *mutatis mutandis* apply to the fresh poll taken under this rule.

87. *Procedure on adjournment of poll.*—

(1) If the poll at any polling station is adjourned under rule 86, the provisions of rules 82 to 85 shall, as far as practicable, apply, as if the poll was closed at the hour fixed in that behalf under rule 4.

(2) When an adjourned poll is recommended under sub-rule (2) of rule 86, the voters who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held; with the sealed packet containing the marked copy of the list of voters, register of voters in Form XVIII and a new voting machine.

(4) The Presiding Officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the list of voters for marking the names of the voters who are allowed to vote at the adjourned poll.

(5) The provisions of rules 64 to 85 shall apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.

88. *Closing of voting machine in case of booth capturing.*— Where the Presiding Officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

89. *Counting of votes where electronic voting machine have been used.*— In relation to the counting of votes cast at a polling station where voting machine has been used the provisions of rule 20, 22, 49, 50, 90, 91 and 92 shall apply.

90. *Scrutiny and inspection of voting machine.*— (1) The Returning Officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(3) The Returning Officer shall satisfy himself that none of the voting machine has in fact been tampered with.

(4) If the Returning Officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or Section 64A of the Representation of

the People Act, 1951 (Central Act 43 of 1951), as may be applicable in respect of the polling station where that machine was used.

91. *Counting of votes.*— (1) After the Returning Office is satisfied that a voting machine has in fact not been tampered with he shall have the votes recorded therein counted by pressing the appropriate button marked “Result” provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

(2) As the votes polled by each candidate are displayed on the control unit, the Returning Officer shall have,—

(a) the number of such votes recorded separately in respect of each candidate in Form XXI;

(b) Form XXI completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and

(c) corresponding entries made in a result sheet in Form XXII and the particulars so entered in the result sheet announced.

92. *Sealing of voting machine.*— (1) After the result of voting recorded in a control unit has been ascertained candidatewise and entered in Form XXI and Form XXII under rule 91, the Returning Officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so however that the result of voting

recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the Returning Officer shall record the following particulars namely:—

(a) the names of the wards;

(b) the particulars of polling station or stations where the control unit has been used;

(c) serial number of the control unit;

(d) date of poll; and

(e) date of counting.

93. *Provisions of rules 54, 55, 56 and 58 to apply.*— The provisions of rules 54, 55, 56 and 58 *mutatis mutandis*, apply in relation to voting by voting machine and any reference in those rules to,—

(a) ‘ballot paper’ shall be construed as including a reference to such voting machine;

(b) any rule shall be construed as a reference to the corresponding rule from rule 64 to rule 92.

94. *Custody of voting machines and papers relating to Election.*— The Returning Officer shall retain in his custody all voting machines used at an election and all other documents relating to the election.

95. *Production and inspection of election papers.*— (1) While in the custody of Returning Officer,—

(a) the packets of marked copies of the list of voters; and

(b) The packets containing registers of voters in Form XVIII shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent Court.

(2) The control units sealed under the provisions of rule 94 and kept in the custody of the Returning Officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the orders of a competent Court.

(3) All other papers relating to the election shall be open to public inspection.

9. *Disposal of election papers.*— (1) Subject to any direction to the contrary given by the Government or by a competent Court, the voting machines kept in the custody of the Returning Officer under rule 94 shall be retained intact for such period as the State Election Commission may direct and shall not be used at any subsequent election without the previous approval of the State Election Commission.

(2) All other papers relating to the election shall be retained until the termination of the next general election for the ward to which they relate and shall thereafter be destroyed, subject to any direction to the contrary given by the Government or a competent Court”.

(3) *Inspection of new Forms XVI to XXII.*— After Form XV of the principal Rules, the following forms shall be inserted, namely:—

FORM XVI

[See rule 72(1)]

Election Duty Certificate

Certified that..... is an elector in the Municipal Council in ward number..... His electoral roll number being..... That by reason of his being on election duty he is unable to vote at the polling station where he is entitled to vote and that he is therefore hereby authorized to vote at any polling station (is said ward where) he may be on duty on the date of poll.

Place.....

Signature

Date:.....

Returning Officer.....

S E A L

FORM XVII

List of Challenged Votes

[See rule 73(2) (c)]

Election to Municipal Council, Ward No....., Polling Station number and Name of Polling Station.....

Serial number of entry	Name of elector	Part of roll	Serial number of Elector's name in that part	Signature or thumb impression of the person challenged	Address of the person challenged	Name of the identifier, if any	Name of the challenger	Order of Presiding Officer	Signature of challenger on receiving refund of deposit
1	2	3	4	5	6	7	8	9	10

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

Date:

Signature of the Presiding Officer

FORM XVIII

[See rule 75(1)(a), 76(7), 78, 84(1)(b)]

Register of Voters

Election to Municipal Council, Ward No....., Polling Station numberPart No. of the Electoral Roll.....

Sl. No.	Sl. No. of elector in electoral roll	Signature/thumb impression of elector	Remarks
1.			
2.			
3.			
4.			
etc.			

Signature of the Presiding Officer

FORM XIX

[See rule 77(2)]

List of Blind and Infirm Voters

Election to the Municipal Council, *from Ward No.....,*/ by elected numbers**/
(State) [Number and Name of Polling Station Name of place of poll.....]

Part No. & Serial No. of elector	Full name of elector	Full name of companion	Address of companion	Signature of companion
---	----------------------	------------------------	----------------------	------------------------

Date:.....

Signature of Presiding Officer

* Strike off whichever is inapplicable.

FORM XX

[See rule 79(2), 84(1)(c)]

List of Tendered Votes

Election to the Municipal Council, from Ward No..... and Names of Part
 No. of Electoral Roll.....Polling Station.....

Sl. No.	Names of Elector	Sl. No. of Elector in electoral roll	Sl. No. in Register of voters Form XV of the person who has already voted in place of elector	Signature impression elector
---------	------------------	---	--	------------------------------------

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Date:.....

Signature of Presiding Officer

FORM XXI

[See Rules 82(1), 82(2), 85(1)(b), 91(2), (a) 91 (2) (b) 92(1)]

Accounts of Votes Recorded

Election to the Municipal Council from Ward No.....

And Name of Polling Station....."Identification No. of Voting.....Machine used
at the Polling Station: balloting Unit control unit.

1. Total No. of electors assigned to the Polling Station.

2. Total No. of voters as entered in the Register for Voters.

3. No. of voters deciding not to record votes under rule.

4. No. of voters not allowed to vote under rule.

5. Total No. of voters recorded as per voting machine.

6. Whether the total No. of voters as shown against item 5 tallies with the total No. of voters as shown
against item 2 minus Nos. of voter deciding not to record votes as against item 3 minus No. of Voters
as against item 4 (2-3-4) or any discrepancy noticed.

7. No. of voters to whom tendered ballot papers were issued.

8. No. of tendered ballot papers.....

SI. No.
From to

- (a) received for use
- (b) issued to electors
- (c) not used and returned

9. Account of paper seals
SI Nos.

From	To	Signature of Polling Agents
1. Serial Numbers of paper seals supplied From.....to.....		1.
2. Total numbers supplied.....		2.
3. Number of paper seals used.....		3.
4. Number of unused paper seals returned to Returning Officer (Deduct item 3 from item 2)		4.
5. Serial number of damaged paper seals if any		

Date
PlaceSignature of Presiding Officer
Polling Station No.

FORM - XXII

[See rule 91(2)(c), 92(1)]

Final Result Sheet

(To be used for recording the result of voting at polling stations other than notified polling stations)

Election to the Municipal Council from Ward No.

PART I

Name of the Ward

..... Municipal Council

Total No. of

Ward No.

Serial No. of Polling Station	No. of valid votes caste in favour of			Total of valid votes	No. of rejected votes	Total No. of tendered votes
	A	B	C			
(1)						
(2)						
(3)						
Total No. of votes recorded at Polling Stations						
No. of voters recorded on postal ballot papers						

Total votes polled.

Place.....

Returning Officer

Date.....

Daulat Hawaldar, Director & ex officio Special Secretary (Municipal Administration).

Panaji, 26th August, 2010.

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